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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/701,865

11/05/2003

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14364US03

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7590

05/02/2006

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EXAMINER

MOORE, IAN N

ART UNIT

PAPER NUMBER

2616

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/701,865

Applicant(s)

KUBLER ET AL.

Examiner

Ian N. Moore

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION*****Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. **Claims 22,28,29,36 and 47** are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 22 and 52 of copending Application No. 10/759,969 (hereinafter refers as Kubler). Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 22, 28,29,36 and 47 of the instant application merely broadens the scope of the claim 22 and 52 of the Kubler by eliminating the elements and their functions of the claims (e.g. microphone, transducer/speaker, radio transmitter, radio receiver) as set forth below.

**Claims 22, 28 and 47 of the instant application recites**, a system for processing voice for communication over a network comprising (see Kubler claim 22, lines 1-2):

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conversion circuitry for converting analog voice signals to digital voice data and for converting digital voice data to analog voice signals for the reproduction of voice (see Kubler claim 22, lines 3, 16)

a processing circuit for managing the packetization of digital voice data to provide digital voice data packets and for managing the depacketization of digital voice data, the processing circuit packetizing the digital voice data according to a packet protocol (see Kubler claim 22, lines 4-8, 13-14) and

a transceiver circuit for wireless transmission and wireless reception according to a wireless communication protocol of the digital voice data packets, wherein the digital voice data packets comprises destination information used for routing the digital voice data packets (see Kubler claim 22, 9-12).

**Claims 29 and 36 of the instant application recites**, a method for processing voice for communication over a network comprising (see Kubler claim 52, lines 1-3):

packetizing digital voice data representing analog voice signals according to a packet protocol, wherein the digital voice data packets comprises destination information used for routing the digital voice data packets though the communication network (see Kubler claim 52, lines 5-9); and

wirelessly transmitting, in accordance with a wireless communication protocol, the digital voice data packetized according to a packet protocol (see Kubler claim 52, lines 9-10).

**Claim 43 of the instant application recites**, a system for processing voice for communication over a network comprising (see Kubler claim 22, lines 1-2):

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a processing circuit for managing the packetization of digital voice data to provide digital voice data packets and for managing the depacketization of digital voice data the processing circuit packetizing the digital voice data according to a packet protocol wherein the digital voice data packets comprises destination information used for routing the digital voice data packets (see Kubler claim 22, lines 4-8,13-16)

a transceiver circuit for wireless transmission and wireless reception according to a wireless communication protocol of the digital voice data packets (see Kubler claim 22, lines 9-12).

It has been held that the omission an element and its function is an obvious expedient if the remaining elements perform the same function as before. *In re Karlson*, 136 USPQ 184 (CCPA). Also note *Ex parte Rainu*, 168 USPQ 375 (Bd.App.1969); omission of a reference element whose function is not needed would be obvious to one skilled in the art. Moreover, the doctrine of double patenting seeks to prevent the unjustified extension of patent exclusivity beyond the term of a patent. This is a provisional obviousness-type double patenting rejection.

3. Claim 51 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 22 of copending Application No. 10/759,969 (hereinafter refers as Kubler) in view of Weaver (US005956673A).

**Claim 51 of the instant application recites**, a system for processing voice for communication over a network comprising (see Kubler claim 22, lines 1-2):

a processing circuit for managing the packetization of digital voice data to provide digital voice data packets for managing the depacketization of digital voice data wherein the digital

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voice data packets comprises destination information used for routing the digital voice data packets the processing circuit packetizing the digital voice data according to a packet protocol and (see Kubler claim 22, lines 3-8,13-16)

a radio for wireless transmission and reception of digital voice data packets (see Kubler claim 22, lines 9-12).

Kubler does not explicitly disclose a processor for controlling the operation of the radio according to a communication protocol that accommodates a plurality of data rates including at least a standard data rate and a higher data rate. However, Weaver teaches a processor (see FIG. 1, Encoder 180) for controlling the operation of the radio according to a communication protocol that accommodates a plurality of data rates (see col. 1, line 25-37; see col. 5, line 55-59; see col. 9, line 33-34; plurality of data rates) including at least a standard data rate and a higher data rate (see col. 1, line 25-37; see col. 6, line 13-25; see col. 9, line 33-35; low or less than full (i.e. half or quarter) data rate and full data rate).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a processor that accommodates a plurality of data rates including at least a standard data rate and a higher data rate, as taught by Weaver in the system of Kubler, so that it would avoid the disadvantage of tandem vocoding by efficient detection; see Weaver col. 1, line 55-65; also by processing at higher rate along with regular rates, it will provide better service.

Moreover, the doctrine of double patenting seeks to prevent the unjustified extension of patent exclusivity beyond the term of a patent. This is a provisional obviousness-type double patenting rejection.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 22,27-29,32,35,36,39,42,47,50,51 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver (US005956673A) in view of Drakopoulos (US005506848A).

**Regarding Claims 22,28,29,36 and 47**, Weaver discloses a system (see FIG. 2, Remote unit 10) for processing voice for communication (see FIG. 1, remote vocoder 15) over a network (see FIG. 2, Wireless network 20) comprising:

conversion circuitry (see FIG. 1, Encoder 180 and Decoder 90) for converting analog voice signals to digital voice data (see FIG. 1, Encoder 180 performs A/D conversion) and for converting digital voice data to analog voice signals for the reproduction of voice (see FIG. 1, Decoder 90 performs D/A conversion; see col. 3, line 25-40; col. 4, line 40-59);

a processing circuit (see FIG. 1, Encoder 180 and Decoder 90) for managing the packetization of digital voice data to provide digital voice data packets (see FIG. 1, Encoder 180 performs packetizing) and for managing the depacketization of digital voice data (see FIG. 1, Decoder 90 decodes packets into digital voice), the processing circuit packetizing the digital voice data according to a packet protocol (see col. 3, line 20-40; col. 4, line 20-39, 40-67; see col. 5, line 34-67; packetizing according to a packet protocol); and

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a transceiver circuit (see FIG. 2, Transceiver in a remote unit 10) for wireless transmission and wireless reception according to a wireless communication protocol of the digital voice data packets (see col. 4, line 40-67; transmitting over wireless link according to wireless protocol), wherein the digital voice data packets comprises information used for routing the digital voice data packets (see FIG. 3,4,9; voice packets comprise control/signaling information; see col. 3, line 20-40; see col. 5, line 34-46; see col. 6, line 52-65).

Weaver does not explicitly disclose destination information. However, it is well known in the art when forming and routing packets/frames over the network to remote end/destination, one must use destination address/number/information to route. In particular, Drakopoulos teaches wherein the digital voice packets comprise destination information (i.e. signaling/control information) used for routing the outgoing digital voice packets (see col. 5, line 31-42; using the address of the destination end user in voice packet for routing through the wireless network). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the use of destination information for routing the digital voice packet, as taught by Drakopoulos in the system of Weaver, so that it would ensure to establish and route the voice packet to destination end user, and it would also maximize utilization of system resources and optimize performance; see Drakopoulos col. 1, line 64-67; see Drakopoulos col. 2, line 15-39.

**Regarding Claim 51,** Weaver discloses a system (see FIG. 2, Remote unit 10) for processing voice for communication (see FIG. 1, remote vocoder 15) over a network (see FIG. 2, Wireless network 20) comprising:



a processing circuit (see FIG. 1, Encoder 180 and Decoder 90) for managing the packetization of digital voice data to provide digital voice data packets (see FIG. 1, Encoder 180 performs packetizing) and for managing the depacketization of digital voice data (see FIG. 1, Decoder 90 decodes packets into digital voice), wherein the digital voice data packets comprises information used for routing the digital voice data packets (see FIG. 3,4,9; voice packets comprise control/signaling information; see col. 3, line 20-40; see col. 5, line 34-46; see col. 6, line 52-65), the processing circuit packetizing the digital voice data according to a packet protocol (see col. 3, line 20-40; col. 4, line 20-39, 40-67; see col. 5, line 34-67; packetizing according to a packet protocol); and

a radio for wireless transmission and reception of digital voice data packets (see FIG. 2, Radio Transceiver in a remote unit 10; see col. 4, line 40-67) and

a processor (see FIG. 1, Encoder 180) for controlling the operation of the radio according to a communication protocol that accommodates a plurality of data rates (see col. 1, line 25-37; see col. 5, line 55-59; see col. 9, line 33-34; plurality of data rates) including at least a standard data rate and a higher data rate (see col. 1, line 25-37; see col. 6, line 13-25; see col. 9, line 33-35; low or less than full (i.e. half or quarter) data rate and full data rate).

Weaver does not explicitly disclose destination information. However, it is well known in the art when forming and routing packets/frames over the network to remote end/destination, one must use destination address/number/information to route. In particular, Drakopoulos teaches wherein the digital voice packets comprise destination information (i.e. signaling/control information) used for routing the outgoing digital voice packets (see col. 5, line 31-42; using the address of the destination end user in voice packet for routing through the wireless network).

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Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the use of destination information for routing the digital voice packet, as taught by Drakopoulos in the system of Weaver, so that it would ensure to establish and route the voice packet to destination end user, and it would also maximize utilization of system resources and optimize performance; see Drakopoulos col. 1, line 64-67; see Drakopoulos col. 2, line 15-39.

**Regarding Claims 27,35,42,** Weaver discloses wireless transmission and reception of digital voice data packets/transceiver utilizes a communication protocol that accommodates a plurality of data rates (see FIG. 1, Encoder 180; see col. 1, line 25-37; see col. 5, line 55-59; see col. 9, line 33-34; plurality of data rates) including at least a standard data rate and a higher data rate (see col. 1, line 25-37; see col. 6, line 13-25; see col. 9, line 33-35; low or less than full (i.e. half or quarter) data rate and full data rate).

**Regarding Claims 32,39,50,54,** Weaver discloses conversion circuitry (see FIG. 1, Encoder 180 and Decoder 90) for converting analog voice signals to digital voice data (see FIG. 1, Encoder 180 performs A/D conversion) and for converting digital voice data to analog voice signals for the reproduction of voice (see FIG. 1, Decoder 90 performs D/A conversion; see col. 3, line 25-40; col. 4, line 40-59).

6. Claims 23,24,30,31,37,38,48,49,52 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver in view of Drakopoulos, as applied to claims 22,29,36,47,51 above, and further in view of Perkins (US005159592A).

**Regarding Claims 23,24,30,31,37,38,48,49,52, and 53**, neither Weaver nor Drakopoulos explicitly disclose an Internet Protocol (IP), wherein IP protocol is TCP/IP. However, Perkins discloses wherein the wireless packet network uses an Internet Protocol (IP), wherein IP protocol is TCP/IP (see col. 4, line 10-20; see col. 7, line 35-56; col. 8, line 30-45; mobile unit 10 and access gateway utilizing TCP/IP).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide TCP/IP, as taught by Perkins, in the combined system of Weaver and Drakopoulos, so that it would provide wireless migration users to a network operating in accordance with the TCP/IP protocol; see Perkins col. 2, line 55-60; see col. 3, line 15-30.

7. Claims 43 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver (US005956673A) in view of Harrison (US 5,796,727).

**Regarding Claim 43**, Weaver discloses a system (see FIG. 2, Remote unit 10) for processing voice for communication (see FIG. 1, remote vocoder 15) over a network (see FIG. 2, Wireless network 20) comprising:

a processing circuit (see FIG. 1, Encoder 180 and Decoder 90) for managing the packetization of digital voice data to provide digital voice data packets (see FIG. 1, Encoder 180 performs packetizing) and for managing the depacketization of digital voice data (see FIG. 1, Decoder 90 decodes packets into digital voice), the processing circuit packetizing the digital voice data according to a packet protocol (see col. 3, line 20-40; col. 4, line 20-39, 40-67; see col. 5, line 34-67; packetizing according to a packet protocol); wherein the digital voice data

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packets comprises information used for routing the digital voice data packets (see FIG. 3,4,9; voice packets comprise control/signaling information; see col. 3, line 20-40; see col. 5, line 34-46; see col. 6, line 52-65);

a transceiver circuit (see FIG. 2, Transceiver in a remote unit 10) for wireless transmission and wireless reception according to a wireless communication protocol of the digital voice data packets (see col. 4, line 40-67; transmitting over wireless link according to wireless protocol).

Weaver does not explicitly disclose destination information and a media access controller for controlling operation. However, Harrison teaches wherein the digital voice packets (see col. 4, line 45-49; 65 to col. 5, line 7; packets of voice data) comprise destination information used for routing the outgoing digital voice packets (see FIG. 5; MS adding destination address into packet; see col. 6, line 5-12; see col. 7, line 35 to col. 8, line 15; see col.12, line 39-61);

a media access controller (see col. 5, line 25-31; MAC) for controlling the operation of the transceiver to transmit and receive information according to a wireless communication protocol (see col. 12, line 39-61; MAC controls/process transmit and receive information according to IEEE wireless protocol). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide destination information and MAC, as taught by Harrison in the system of Weaver, so that it would ensure to establish and route the packets of voice data to destination end user, provide various classes of data communication services as well as voices services, and provide registration and channel/bandwidth allocation; see Harrison col. 3, line 22-26; see col. 4, line 50-55; see col. 7, line 35-55.

**Regarding Claim 46,** Weaver discloses conversion circuitry (see FIG. 1, Encoder 180 and Decoder 90) for converting analog voice signals to digital voice data (see FIG. 1, Encoder 180 performs A/D conversion) and for converting digital voice data to analog voice signals for the reproduction of voice (see FIG. 1, Decoder 90 performs D/A conversion; see col. 3, line 25-40; col. 4, line 40-59).

8. Claims 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver in view of Harrison, as applied to claim 43 above, and further in view of Perkins (US005159592A).

**Regarding Claims 44 and 45,** neither Weaver nor Harrison explicitly discloses an Internet Protocol (IP), wherein IP protocol is TCP/IP. However, Perkins discloses wherein the wireless packet network uses an Internet Protocol (IP), wherein IP protocol is TCP/IP (see col. 4, line 10-20; see col. 7, line 35-56; col. 8, line 30-45; mobile unit 10 and access gateway utilizing TCP/IP).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide TCP/IP, as taught by Perkins, in the combined system of Weaver and Harrison, so that it would provide wireless migration users to a network operating in accordance with the TCP/IP protocol; see Perkins col. 2, line 55-60; see col. 3, line 15-30.

9. Claims 25,33,40, and 55-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver in view of Drakopoulos, as applied to claims 22,29,36,47 above, and further in view of Cripps (US005838730A).

**Regarding Claims 25,33,40,57,58 and 59**, neither Weaver nor Drakopoulos explicitly disclose a frequency hopping spread spectrum protocol. However, using frequency hopping spread spectrum protocol is well known in the art. In particular, However, Cripps discloses wherein the wireless packet network communicates frequency hopping spectrum protocol (abstract; see col. 2, line 13-20; see col. 36, line 32-45; 2.4 GHz).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide frequency hopping spread spectrum protocol with 2.4 GHz, as taught by Cripps, in the combined system of Weaver and Drakopoulos, so that it would provide a transmitter/receiver in accordance with FCC rules to support frequency hopping spread spectrum 2.4 GHz ISM which is low cost and low power; see Cripps col. 2, line 15-32.

**Regarding Claims 55 and 56**, neither Weaver nor Drakopoulos explicitly disclose a radio comprises a 2.4 gigahertz, wherein the radio operates in accordance with a frequency hopping spread spectrum protocol. However, using 2.4 GHz frequency hopping is well known in the art as defined by FCC. In particular, Cripps discloses disclose a radio comprises a 2.4 gigahertz, wherein the radio operates in accordance with a frequency hopping spread spectrum protocol (abstract; see col. 2, line 13-20; see col. 36, line 32-45; 2.4 GHz).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide 2.4 GHz frequency hopping protocol, as taught by Cripps, in the combined system of Weaver and Drakopoulos, so that it would provide a transmitter/receiver in accordance with FCC rules for 2.4 GHz ISM which is low cost and low power; see Cripps col. 2, line 15-32.

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10. Claims 26,34, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver in view of Drakopoulos, as applied to claims 22,32,52 above, and further in view of Honing (US005481533A).

**Regarding Claims 26,34, and 41**, neither Weaver nor Drakopoulos explicitly disclose a direct sequence spread spectrum technique. However, using direct sequence spread spectrum technique is well known in the art. In particular, Honing discloses wherein the wireless packet network communicates using a direct sequence spread spectrum technique (abstract; see col. 2, line 34-40).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide direct sequence spread spectrum technique, as taught by Honing, in the combined system of Weaver and Drakopoulos, so that it would suppress interference; see Honing col. 2, line 38, line 38-40.

#### ***Response to Arguments***

11. Applicant's arguments with respect to claims 22-59 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ian N. Moore whose telephone number is 571-272-3085. The examiner can normally be reached on 9:00 AM- 6:00 PM.

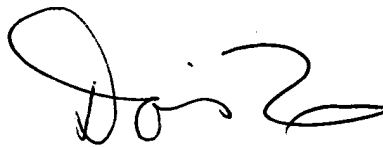
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on 571-272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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